

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TIMOTHY R. MARSH,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 3:24-248
	)	Judge Stephanie L. Haines
SOMERSET COUNTY , <i>et al.</i> ,	)	Magistrate Judge Maureen P. Kelly
	)	
Defendants.	)	

**MEMORANDUM ORDER**

This is a civil rights case that Timothy R. Marsh (“Plaintiff”), a state prisoner in custody at SCI-Waymart, seeks to bring under 42 U.S.C. § 1983. This matter was referred to Magistrate Judge Maureen P. Kelly for proceedings in accordance with the Federal Magistrates Act, 28 U.S.C. § 636, and Local Civil Rule 72.D.

On October 16, 2024, Plaintiff submitted a complaint without payment of the required filing fee, and without a motion for leave to proceed *in forma paupers* [Doc. 1]. On November 15, 2024, Judge Kelly issued a deficiency order [Doc. 3] directing Plaintiff to complete a motion to proceed *in forma pauperis*, to file a consent to Magistrate Judge form, to provide a certified copy of his prison trust fund account statement, and to complete a form authorizing the withdrawal of funds from his inmate account. On November 25, 2024, Plaintiff filed the consent to Magistrate Judge form [Doc. 4] and the authorization form [Doc. 5], but failed to submit either a motion for leave to proceed *in forma pauperis* or a certified copy of his trust fund account statement by the December 16, 2024, deadline. As a result, Judge Kelly entered an order [Doc. 6] on January 13, 2025, directing Plaintiff to show cause by February 12, 2025, why this case should not be dismissed for failure to comply with the Court’s deficiency order. To date, Plaintiff has neither responded to the show cause order nor submitted the required paperwork.

On April 2, 2025, Judge Kelly issued a Report and Recommendation (“R&R”) recommending that this case be dismissed without prejudice for failure to prosecute [Doc. 7]. Plaintiff was notified that written objections to the R&R were due by April 21, 2025. *See* 28 U.S.C. § 636 (b)(1)(B) and (C) and Local Civil Rule 72.D.2. To date, Plaintiff has not filed any written objections to the R&R, and the time to do so has expired. Nor has he complied with Judge Kelly’s show cause order by filing a motion for leave to proceed *in forma pauperis* and a certified copy of his trust fund account statement.

Upon review of the record and the R&R under the applicable “reasoned consideration” standard, *see EEOC v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (standard of review when no timely and specific objections are filed), and pursuant to Local Civil Rule 72.D.2, the Court will accept in whole the findings and recommendations of Judge Kelly in this matter.

A district court has the inherent power to sua sponte dismiss an action under Federal Rule of Civil Procedure 41(b) for failure to comply with an order of court. *See Adams v. Trustees of New Jersey Brewery Employees’ Pension Trust Fund*, 29 F.3d 863, 871 (3d Cir. 1994). Here, Plaintiff failed to fully comply with Judge Kelly’s deficiency order directing him to provide all of the requisite paperwork, nor did he respond to Judge Kelly’s show cause order. Moreover, Plaintiff was cautioned in both orders that his failure to comply could result in dismissal of his case. Under these circumstances, the dismissal of this action for failure to prosecute is appropriate.

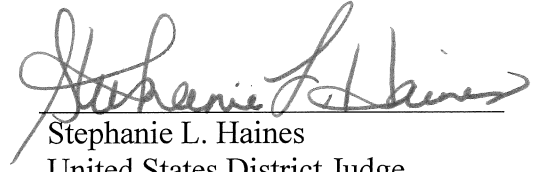
In recommending dismissal under Rule 41(b), Judge Kelly considered each of the factors set forth in *Poulis v. State Farm Fire and Casualty Co.*, 747 F.2d 863 (3d Cir. 1984), and thoroughly explained why those factors weigh in favor of dismissal of this case for failure to prosecute. Judge Kelly’s analysis is sound and will be adopted in whole as the opinion of this Court. In addition, Plaintiff’s failure to file any objections to the R&R after being given a chance

to do so further demonstrates to this Court that he has lost interest in pursuing this action any further.

Accordingly, the following order is entered:

**ORDER OF COURT**

AND NOW, this 25<sup>th</sup> day of April, 2025, for the reasons set forth in Magistrate Judge Kelly's Report and Recommendation [Doc. 7], which hereby is adopted as the opinion of this Court as supplemented herein, IT IS ORDERED that this action hereby is **dismissed without prejudice** under Federal Rule of Civil Procedure 41(b) based on Plaintiff's failure to prosecute. The Clerk of Court shall mark this matter closed.

  
Stephanie L. Haines  
United States District Judge